

EXHIBIT E - PART 4

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1
2 like NOMI, a member of the citizens police
3 academy, members of the jail staff.

4 Q. Who from the jail staff?

5 A. Two or three of our correction
6 officers. I can't specifically -- you know,
7 certainly Captain LeFever.

8 Q. Did you participate in this?

9 A. Yes, I did.

10 Q. Did Undersheriff Convery?

11 A. Undersheriff Convery may have sat
12 in for part of it, but again this was over a
13 couple of days.

14 Q. How about O'Malley?

15 A. I believe he would have been there
16 if he wasn't out -- he had a back injury and I'm
17 not sure exactly on the timing of that.

18 Q. Anyone else from the sheriff's
19 department, either correction side or within the
20 office, administration?

21 A. I believe the inspector general.

22 Q. Perry?

23 A. Yes.

24 Q. Anyone else?

25 A. All I can say, there were a number

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1
2 of people from the correctional staff and the
3 community.

4 Q. Anybody from AmeriCor aside from
5 Duffy?

6 A. Rich Demattio might have
7 participated, I don't recall.

8 Q. What was the outcome of this one to
9 two day session, if you will?

10 A. Well, we are working on -- we are
11 working on the whole topic of suicide prevention
12 and mental health issues.

13 Q. Still you mean?

14 A. Still. I mean, this is -- this is
15 a --

16 Q. Was there any outcome to this one
17 to two day session?

18 A. There are some outcomes already.
19 We just implemented a contract expanding --
20 expanding the mental health coverage in the jail
21 from 12 hours a week, I'm talking about not the
22 psychiatrist but the clinical licensed social
23 worker, to 40 hours per week.

24 Q. And that was a result of that one
25 to two day meeting?

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2 A. Yes.

3 Q. Any other things that were
4 implemented specifically as a result of that?

5 A. You know, I believe we -- you know,
6 we received positive feedback on the
7 professionalism of the jail staff and their
8 knowledge of the suicide screening guidelines.
9 We have painted the North Housing Unit with a
10 more soothing color. You know, we are
11 continuing to look at, you know, action that we
12 can take to -- oh, we are working on a program
13 called CORIP, Community Offender Linked --
14 Community Offender Linked Reentry Initiative
15 Putnam, whereby we are looking at the overall
16 reintegration of inmates from the Putnam County
17 Correctional Facility back into the community as
18 opposed to, you know, where are they going to
19 sleep tonight, what kind of job are they going
20 to have, medications, follow up. And we are
21 continuing to work these issues.

22 I chair or I'm the co-president of
23 the Mental Health Association of Putnam County.
24 And we are working with Commissioner Piazza
25 on -- at our last board meeting last week we

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2 were looking at a one point of entry for people
3 back into society. I'm not probably doing
4 justice to all the things we want to accomplish,
5 but...

6 Q. Were there any changes in policies
7 or procedures that came out of this one to two
8 day session?

9 A. Not yet, not policies and
10 procedures.

11 Q. In terms of your conversations with
12 Duffy, other than at this one to two day session
13 did you ever speak with him specifically about
14 suicide prevention policies and procedures?

15 A. I know I had a number of
16 conversations with him, but I can't specifically
17 identify he said this and I said that.

18 Q. Now you indicated earlier that you
19 spoke with him after this case happened, meaning
20 after Spencer's death. Do you recall in
21 substance what you said to him and what he said
22 to you?

23 A. I don't specifically remember the
24 conversation, other than again wanting to work
25 cooperatively to make the system even better and

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2 to make sure that we were meeting the National
3 Commission on Correctional Health Care
4 standards.

5 Q. Did you ever see any policies or
6 procedures that AmeriCor had in place for the
7 staff they employed in the Putnam County
8 Correctional Facility?

9 A. I've seen some documents -- I've
10 seen some documents at these depositions that I
11 recall. But most of the documents -- again, I'm
12 the Sheriff of the county. At my level most of
13 the documents at my level have been on the, you
14 know, the broad policy guidance to ensure that
15 we are in compliance with New York State
16 Commission of Correction and with the National
17 Commission on Correctional Health Care
18 standards. I recall looking at provisions about
19 detoxification, the kind of treatment that
20 inmates would get, and I was pleased with the
21 programs that were being put in place.

22 Q. Did you ever see Exhibit 28, which
23 is the 2003 procedural manual for AmeriCor?

24 Let me just clarify. Prior to the
25 depositions in this case.

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2 A. You know, I know I've seen it I
3 believe at depositions, but I don't have a -- I
4 don't have a memory of specifically, you know,
5 seeing this document.

6 Q. How about Exhibit 30, which is the
7 November 2004 policy manual for AmeriCor, again
8 prior to depositions in this case have you ever
9 seen that?

10 A. I don't recall. I don't have a
11 specific memory of seeing it.

12 Q. In terms of AmeriCor, are they in a
13 contractual relationship with the county?

14 A. Yes.

15 Q. What's the term of the contract?

16 A. The term of the contract is --
17 well, it started out as a six-month contract
18 because it started out in mid year, and it's an
19 annual renewable contract.

20 Q. Has it been renewed then every year
21 after that initial six-month period?

22 A. Yes, it has.

23 Q. Have you been instrumental in
24 having it renewed?

25 A. I'm a signatory to the contract,

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yes.

Q. In terms of the services that AmeriCor provides, are those detailed in writing to the county as part of that contract?

A. Yes, there's actually -- I believe it's in an addendum to the contract, where it specifically states what they will provide. And, of course, it was submitted initially in their RFP. And then there have been some additions to the contract; for example, the addition of the mental health coverage. And then after the addition of the mental health coverage the expansion to the 40 hours a week for the clinical social workers, again which came out of our study.

Q. In terms of the initial addendum to the contract, that still carries forward to the subsequent renewals of the contract, correct?

A. Yes. When a contract is renewed unless something is specifically deleted or added, it remains in effect normally.

Q. In terms of the addendum, just take a look, if you would, at Bates stamped pages 545 and on, which are part of Exhibit 25, which were

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2 the attachments to the initial contract with
3 AmeriCor. Do you recognize that as the schedule
4 or scope of services that AmeriCor indicated it
5 would provide to the county?

6 A. This looks very familiar. I
7 believe this is what was -- the addendum.

8 Q. This was produced to me by
9 AmeriCor. You could tell on the bottom right
10 where it has their first initials and then the
11 Bates stamped pages.

12 A. Yes.

13 Q. Did you ever ask anybody since you
14 became -- well, since AmeriCor entered into this
15 contract, as to whether or not any of the things
16 AmeriCor said it would do in that scope of
17 services in fact are not being carried out?

18 A. There's a medical audit committee
19 meeting that takes place normally attended by
20 the undersheriff, Captain LeFever and sometimes
21 myself. And the purpose of that meeting is to
22 go over, you know, the services that are
23 provided and to make sure that the contract is
24 being fulfilled. For example, if a shift would
25 not be filled there would be a credit back to

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the county. I can't recall when a shift has not been filled with nursing staff, for example.

Q. How often does the medical audit committee meet?

A. It meets normally every month. There have been sometimes when it might go an additional month if schedules can't be arranged, but generally we try to meet once a month.

Q. Is Kevin Duffy a part of that meeting?

A. Yes, he's at the meeting.

Q. Other than yourself and Undersheriff Convery, who else attends the meeting?

A. Well, we normally -- normally the administrator, the medical administrator attends, which was -- previously it was Rich Demattio. Now Marlene would attend. We normally -- the undersheriff normally attends them all. I attend whenever my schedule permits. The inspector general has attended some of them. We have brought in outside professional staff to help. We have had Dr. Amler.

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2 Q. That would be only sometimes?

3 A. They are certainly welcome all the
4 time. But particularly for the annual one, when
5 we look at the end of the year we like to get
6 someone from the health department.

7 Q. Just the regular attendees is what
8 I'm talking about.

9 A. It's generally the lieutenant or
10 sergeant from the jail would normally be there,
11 you know, because we want to get input.

12 Q. A different lieutenant or sergeant
13 or the same one?

14 A. No, it would be the three
15 administrators.

16 Q. So either Captain LeFever --

17 A. Sergeant Sheila Hanley or
18 Lieutenant O'Malley or Captain LeFever.

19 Q. Are there minutes of these
20 meetings?

21 A. There are informal -- I believe
22 there are informal minutes from the meetings.

23 Q. Who keeps the minutes?

24 A. The minutes are made by Kevin Duffy
25 and brought back to the next meeting.

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2 Q. What happens at the next meeting
3 with respect to those minutes, are they
4 approved?

5 A. We just look at them and make sure
6 that we -- you know, it's basically a system of
7 ensuring that we, you know, that we follow up on
8 issues that we need to follow up on.

9 MS. BERG: Why don't we take
10 a lunch break?

11 *(At this time a luncheon*
12 *recess was held, after which the*
13 *deposition resumed.)*

14 CONTINUED EXAMINATION

15 BY MS. BERG:

16 Q. Have you ever seen the Chairman's
17 Memorandum from November 1, '99, which we have
18 marked as Exhibit 34?

19 A. I know I have obviously seen it in
20 the deposition. And I'm not sure if I've seen
21 it prior to the deposition.

22 Q. How about Exhibit 35? And it's an
23 October 5th, 2005 Chairman's Memorandum. Focus
24 though on any time outside the context of the
25 depositions. Have you ever seen that before?

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2 A. Again, I don't recall, but I know
3 I've seen it during the deposition.

4 Q. Exhibit 37, same question.

5 A. I don't recall.

6 Q. Final Exhibit, 38, same question.

7 A. I don't recall this, but I know
8 I've had discussions with my staff about suicide
9 smocks.

10 Q. Was it after this memorandum was
11 issued?

12 A. No, I think it was summer of 2006.
13 It was like, you know, what about using suicide
14 smocks? And of course they explained to me the
15 reasons why it's not a good idea. By the way, a
16 suicide smock is different than a paper suit.

17 Q. In terms of the question, that was
18 something you put to your staff?

19 A. I was discussing, you know, every
20 aspect of suicide prevention, you know, about
21 the time we did the, you know, the notification
22 of the undersheriff. I just wanted to make sure
23 we are not leaving any stone unturned.

24 Q. Who responded to you in terms of
25 laying out the reasons why it wasn't a good idea

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to use the suicide smocks?

A. If my memory serves me correctly, it was Captain LeFever. Could have been Lieutenant O'Malley. But I believe it was Captain LeFever.

Q. Did you have any discussions with Captain LeFever --

A. And I believe it was also -- I believe I had the same conversation with Judith Cox.

Q. Did you have any discussions with Captain LeFever or Lieutenant O'Malley about changing any written policies or procedures after Spencer's suicide?

A. Only in the global sense of looking at the long-term model of excellence, working with Judy Cox. I mean there was -- you know, there was -- the issue wasn't -- the issue wasn't the policy at the time. The issue was the policy being followed, that was the issue.

Q. That's the way you saw the issue?

A. That's the way I saw the issue.

Q. Did you ever speak with LeFever at any point in time specifically about changing

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2 the procedures that were in place in reference
3 to what we previously looked at, Exhibit 18, and
4 the provision that's on the second page, letter
5 H, which in writing says that 15-minute
6 supervisory visits are not adequate?

7 A. No. And again, I don't believe
8 15-minute supervisory visits were ever adequate.

9 Q. But after Spencer's death did you
10 have any conversations with LeFever about
11 modifications or amendments to policies?

12 A. No, again because right from the
13 moment when I walked out of that cell the
14 question was, what was the screening, and I told
15 you earlier what his answer was.

16 Q. Did you ever see the form for
17 Spencer, which before you is Exhibit 3, in its
18 completed state?

19 A. I've certainly seen it at these
20 depositions and I believe -- I believe we -- it
21 was included in the packet I believe that went
22 to the Commission of Correction. So we sent it
23 up to the Commission of Correction. And I don't
24 recall what other times I may have looked at it
25 or discussed it.

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2 Q. In terms of the form itself, did
3 you ever sit down and go over that with Captain
4 LeFever at any point in time?

5 A. I don't recall.

6 Q. Did you ever speak with Vasaturo
7 about his completion of that form?

8 A. No. And I think it's important for
9 you to have an appreciation that as the sheriff
10 with the chain of command between me and Mr.
11 Vasaturo and with the disciplinary charges
12 pending and, you know, me being the person that
13 would ultimately have to adjudicate that matter,
14 I do not believe it would have been appropriate.

15 Q. You said disciplinary charges
16 pending, but there are no charges pending right
17 now, isn't that true?

18 A. Well, the matter is pending.

19 Q. What's pending?

20 A. The adjudication of the matter.
21 The matter has not been resolved, you know, this
22 case evolved very quickly. There was a Notice
23 of Claim very quickly and then -- you know, as a
24 matter under investigation I don't know what I
25 should...

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MR. KLEINBERG: I believe
that suffices.

Q. Have charges been preferred against
Vasaturo to date?

A. Not yet.

Q. What about LaPolla?

A. Not yet.

Q. To your knowledge has Vasaturo been
counseled?

A. That would have been done by the
chain of command within the jail.

Q. Do you know if that happened?

A. No.

Q. Do you know if LaPolla has ever
been counseled?

A. No.

Q. So when you say the matter pending,
you mean under your consideration?

A. Yes.

Q. Nothing else?

A. Well, it's a -- it's clear to me
that they understand that this matter is part of
the stipulation agreement, that the matter is
going to be resolved, it will be adjudicated.

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2 Q. In what forum?

3 A. I don't want to prejudge a case
4 before...

5 Q. Do you mean in a disciplinary forum
6 or in this lawsuit?

7 A. In a disciplinary forum.

8 Q. When I say what forum --

9 A. A disciplinary forum.

10 Q. To your knowledge has any
11 counseling or other disciplinary action been
12 taken against anybody else in the correction
13 side of the jail with respect to Spencer's
14 death?

15 A. Not at this time.

16 Q. Did anybody ever tell you prior to
17 the depositions in this case that Vasaturo
18 claimed he completed the form for Spencer,
19 Exhibit 3, incorrectly?

20 A. No, not prior to the deposition.

21 Q. Did anybody ever tell you prior to
22 the depositions in this case that when Vasaturo
23 notified LaPolla about Spencer being placed on
24 the 15-minute watch that he mentioned verbally
25 only the heroin addiction and did not mention

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2 the scores on the suicide screening form?

3 A. I don't recall.

4 Q. Did you ever discuss with anybody
5 the practice in place with respect to the P-1s
6 that are issued when somebody is placed on a
7 heightened level of supervision, in terms of who
8 typically sees those P-1s?

9 A. No. Again, that was a daily
10 procedure which I expect the jail administrator
11 to ensure, you know, the notification of people
12 and sharing of information.

13 Q. That's a responsibility that's been
14 delegated down the chain of command to LeFever?

15 A. I just believe it's a natural
16 responsibility for the person who is running the
17 jail on a daily basis to ensure that his people
18 are informed. Now, as I walk around the jail, I
19 certainly look at things and talk to people and
20 listen to people and -- I'm always listening and
21 having my ears and eyes open. But I'm just
22 saying I don't recall a specific, you know,
23 conversation on that subject.

24 Q. Did you ever see the P-1 that was
25 done in Spencer's case, which we marked as

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Exhibit 4?

A. I know I saw it as a part of the lawsuit. I'm not sure -- I'm not sure if it was part of the packet that went to the Commission of Correction. It could have been, you know, there were a lot of documents in that packet.

Q. Did you ever discuss with anybody what happens with those P-1s once they are prepared in terms of distribution within the jail?

A. I know there's a very thorough system of notification and providing documents, but specifically on this particular one I know there's a lot of information sharing. You know, I have been to some shift changes, you know, to talk --

Q. Have you been to the briefings that are done at shift change?

A. I've been to a few of the briefings. Obviously, I don't run the jail, but I --

Q. Have you seen the book that the P-1s are kept in?

A. I believe I've seen the book.

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Q. In the briefing room if you will?

A. Yes.

Q. Prior to the depositions in this case did anybody ever tell you that LaPolla claimed he never saw Exhibit 4 pertaining to Spencer?

A. I don't recall that.

Q. In terms of Spencer's score, he had a ten in the total column and he had three of the shaded boxes checked on Exhibit 3. Do you know if he was ever referred to mental health?

A. I don't specifically know if he was referred to mental health, but clearly he should have been. He should have been on a constant watch.

Q. In terms of the decision to place him on 15-minute supervisory visits as opposed to constant watch, do you know who made or participated in that decision, independent of these depositions?

A. No.

Q. Independent of these depositions, do you know if LaPolla had any role in that decision?

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2 A. No.

3 Q. In terms of the referral to mental
4 health, would it have been the booking officer
5 and the tour supervisor's responsibility to make
6 that referral at intake?

7 A. I believe that the booking officer
8 and the tour supervisor either/or both could
9 have picked up on the referral to mental health
10 as well as, you know, the nursing staff as far
11 as, you know, being a part of again this total
12 team effort. We have a total team effort.

13 Q. Did you ever see Exhibit 5, which
14 is the mental health referral done by Susan
15 Waters for Spencer?

16 A. I've seen it as a part of the
17 deposition and it may have been in the packet
18 that went to the Commission of Correction, but I
19 don't have a specific -- I mean -- my focus --
20 my focus was on the suicide screening.

21 Q. Did you ever speak with anybody
22 about Susan Waters' basis for completing the
23 mental health referral form?

24 A. Not that I can recall.

25 Q. As part of the required procedures

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2 when an inmate commits suicide or dies in the
3 facility, you are required to notify the State
4 Commission, correct?

5 A. Yes.

6 Q. Following that notification in
7 Spencer's case an investigation was conducted by
8 the State Commission, correct?

9 A. Yes.

10 Q. As a result of their investigation
11 a report was issued?

12 A. Yes.

13 Q. Do you recall at some point in time
14 you saw a preliminary draft of that report and
15 were provided with an opportunity to comment?

16 A. Yes.

17 Q. Did you do that?

18 A. Yes.

19 Q. Prior to drafting your response to
20 the preliminary report did you get input or
21 guidance from anybody?

22 A. Yes.

23 Q. Who did you speak with or get
24 guidance from?

25 A. Well, clearly -- clearly the

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2 response I believe was drafted with consultation
3 with, if my memory serves me correctly, Captain
4 McNamara and William Spain. And I'm sure that
5 if -- again, I don't have the specific
6 recollection. But if we needed any information
7 there we didn't have, I'm sure we would have
8 consulted with the jail administrator and his
9 staff.

10 Q. Do you recall one way or another?

11 A. I don't recall.

12 Q. In terms of the preliminary
13 findings of the report, you recall that it
14 recommended action against both Vasaturo and
15 LaPolla, correct?

16 A. Yes.

17 Q. In response you advised the
18 Commission that discipline was pending?

19 A. Yes.

20 Q. By pending you meant that it was
21 under consideration?

22 A. Yes, and that's -- quite frankly,
23 that is legally from the standpoint the -- it's
24 important when you are talking about due process
25 here that you don't impose discipline before you

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1
2 go through the procedure. And there was some
3 advice given to me by my staff that I believe is
4 from Mr. Spain and I believe is privileged.

5 Q. Other than Spain, did you discuss
6 the findings in the report with anyone else?

7 A. I don't recall.

8 Q. Do you recall if you had any
9 communications with Captain LeFever about the
10 Commission's report on the death of Spencer
11 Sinkov?

12 A. I may have, but I don't recall.
13 And again, if my memory serves me, the -- you
14 know, this issue was -- you know, the thrust of
15 it went back to the suicide screening.

16 Q. Did you ever speak with anybody
17 from the Commission specifically about Spencer's
18 death?

19 A. Yes.

20 Q. Who did you speak with there?

21 A. I spoke to Chris Ost O-S-T. And
22 there was another gentleman with him and I don't
23 remember his name specifically.

24 Q. Where was that?

25 A. That was in the conference room of

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1 the Putnam County Correctional Facility.

2
3 Q. Was that when these members of the
4 Commission came to the facility to question
5 staff?

6 A. Yes.

7 Q. Do you recall specifically what you
8 said to Ost and this person with him and what
9 they said to you?

10 A. Not specifically sentence by
11 sentence, but I remember the overall -- the
12 overall thrust.

13 Q. What was that?

14 A. Was that he should have been, you
15 know, on a constant watch. And certainly I
16 agreed with their findings. And that's the main
17 thrust I had with them during the visit.

18 Q. Do you recall if that occurred in
19 August of 2006?

20 A. I believe it was. I know it was
21 when they came down for their investigation
22 interviews.

23 Q. Was anybody else present with you?

24 A. I don't recall. I mean the captain
25 could have been present, but...

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2 Q. which captain?

3 A. well, it would have been Captain
4 LeFever or Captain McNamara, but I really don't
5 recall. I don't believe -- I don't believe
6 anyone was, but I'm not certain of that as I sit
7 here today.

8 Q. Did these investigators show you
9 any documents during the time that they were
10 asking you any questions?

11 A. Not that I recall. They were --
12 you know, they were, you know, providing --
13 basically they were giving me what's known as an
14 outbrief. In other words, they were discussing
15 the matter with me, giving me their initial on
16 horseback, you know, reaction or findings. And
17 obviously, that didn't -- it wasn't a final
18 report at that time, but they wanted to provide
19 me information. And as I recall, I believe I
20 was alone with them, but I just can't be
21 certain.

22 Q. So after they interviewed the staff
23 who was on duty at the time or the day that
24 Spencer committed suicide they then basically
25 briefed you on what they learned?

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2 A. I believe I was the last person
3 they spoke to before they left.

4 Q. Did they discuss anything with you
5 about the form, the intake form?

6 A. No.

7 Q. Did they discuss anything with you
8 about any policies or the procedures that the
9 jail had then in writing?

10 A. No, and that's the -- they never --
11 they never mentioned anything about the form.
12 They never, you know, they never mentioned the
13 difference between the ADM form versus this
14 form. And that was never discussed.

15 Q. Did you ever bring to their
16 attention the fact that the forms that were
17 being used by Putnam County were not the forms
18 that the state had used, the ADM 330?

19 A. No. And it's something that when
20 this proceeding is at a point where, you know,
21 we have all the facts I'm going to certainly
22 provide them additional information in case
23 there may be other correctional facilities
24 around the state that may have additional
25 issues.

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2 Q. Do you recall at any point in time
3 having any conversations with Captain LeFever
4 about disciplinary action against Vasaturo?

5 A. I don't -- I don't remember
6 specifically, specifically a time and date of a
7 conversation. But I sat here and I heard his
8 testimony about his recommendation to me that
9 they be terminated. And I certainly, you know,
10 know that he took a hard line. But, you know,
11 as the Sheriff of the county I've got to ensure
12 that we have -- follow due process.

13 I'm sure, Miss Berg, there were
14 some conversations. Something like this
15 happens, you have conversations. But I just
16 specifically now can't remember. I remember the
17 one clear as day, the one outside the cell on
18 the day it happened.

19 And I know we were getting
20 documents together for the -- to send to the
21 Commission and I know we have done a lot of
22 conversations on suicide prevention and model of
23 excellence. But I don't have a specific memory,
24 you know, of any other conversations with
25 Captain LeFever that I can just say he said this

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and I said that.

Q. You indicated that you recall
LeFever recommending that they be terminated.
You mean LaPolla and Vasaturo, correct?

A. Let me just say I remember him
taking -- taking what I believe what was a hard
line approach.

Q. In the depositions or somewhere
else?

A. I remember in the deposition. And
you know, that is -- that would be like him to
do to, you know, say that the individual pays
the price.

Q. In terms of not what he said here
but what you and he discussed outside the
context of what you learned in these
depositions, did he ever recommend to you
specifically that LaPolla and/or Vasaturo be
terminated, that you can recall as you sit here
now?

A. I remember specifically when he sat
in this chair.

Q. But not in this room; in other
words, do you have recall --

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2 A. I don't have a specific. That gets
3 very difficult when you sit in these depositions
4 and then you try to separate the two. But I
5 don't have a specific recollection. So I think
6 that's my best answer, because I don't have a
7 specific recollection.

8 Q. Did you speak with Convery at any
9 point in time about possible disciplinary
10 action?

11 A. You know, I know I have spoken to
12 Undersheriff Convery a number of times about the
13 whole suicide prevention process and again, as
14 you know, the way he's been inserted into the
15 day-to-day operations. But I don't have a
16 specific recollection of saying -- you know,
17 generally speaking I don't prejudge cases until
18 the charges are preferred and the facts are
19 gathered and the case comes before me.

20 Q. Did Convery ever make any
21 recommendations to you in terms of disciplinary
22 action?

23 A. Not that I recall.

24 Q. Let me show you what we have
25 previously marked as Exhibit 43. Can you